S.B. CIVIL MISC. APPEAL NO.1147/2006
(Smt.Cheedi Devi & anr. Vs. Union of India & ors.)

Date of Order :: 04.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Deepak Menaria for the appellants

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This is claimants appeal seeking enhancement over the amount of compensation of Rs.2,90,000/- awarded by the Motor Accidents Claims Tribunal, Udaipur for accidental death of Suresh Kumar, aged about 23-24 years, son of appellant No.1 and brother of appellant No.2.

For the purpose of quantification of compensation, the Tribunal has taken age of deceased at 23 years and though his income was asserted by the claimant No.1 in her statement at Rs.3,000/- per month while working as a driver, the Tribunal has observed that no independent evidence has been produced on record and even the driving licence of the deceased was not produced. In this view of the matter, the Tribunal put an estimate on income of the deceased at Rs.1,800/- per month on the basis of minimum wages and yet further provided for a component of future enhancement and took the average income of the deceased at Rs.2,100/- per

month and after deducting one-third on his personal expenditure assessed the monthly contribution from the deceased to the claimants at Rs.1,400/- per month leading to a multiplicand of Rs.16,800/-. In view of the age of mother of deceased at 40 years, the Tribunal provided multiplier of 16 and assessed pecuniary loss to the tune of Rs.2,68,800/-. The Tribunal further allowed non-pecuniary loss at Rs.10,000/- and funeral expenses at Rs.2,000/- and further Rs.10,000/-for transportation of dead body from the place of incident to the native place of the deceased. The Tribunal allowed interest at the rate of 6% per annum from the date the notices were first got served on the non-applicants i.e. 12.06.2001 and not from the date of fling of claim application i.e. 05.08.1994.

Learned counsel for the appellants has strenuously contended that the income of the deceased minimum at Rs.3,000/- was clearly established on record and there was nothing contrary produced by the non-applicants so as to disbelieve even that much of minimum earning of the deceased. In this view of the matter, learned counsel has urged, the Tribunal has been seriously in error in taking the average monthly income only at Rs.2,100/. Learned counsel has further submitted that the Tribunal has erred in disallowing

interest for the entire period of pendency of the claim application.

Having heard learned counsel for the appellants and having perused the impugned award, this Court is satisfied that the impugned award cannot be said to be falling too short of just compensation and needs no interference.

It is true that the Tribunal has taken average monthly income of the deceased only at Rs.2,100/- but then admittedly the deceased was an unmarried person and in the overall circumstances, for the purpose of loss of contribution, it does not appear appropriate that the entire of two-third of the average income adopted in relation to the deceased be taken towards loss of contribution. Having regard to the future certainties and uncertainties, this Court is clearly of opinion that not more than 50% of the average earning of the deceased could have been provided towards loss of contribution for the claimants and in that view of the matter, even if some increase in the average monthly income is considered for the claimants, upon taking reasonable figure towards loss of contribution by application of appropriate principles, the multiplicand would stand nearly the same figure as adopted by the Tribunal. The Tribunal has further not

restricted itself in application of multiplier and has provided multiplier of 16 to assess the pecuniary loss at Rs.2,68,800/-. The Tribunal further awarded reasonable amount towards non-pecuniary loss and funeral expenses and so also further Rs.10,000/- for transportation of dead body of the deceased. On the whole, the award cannot be said to be falling too short of just compensation. It is true that the Tribunal has disallowed interest from 05.08.1994 to 12.06.2001 but it has specifically been noticed that during this period, the matter remained pending for removal of defects and even process fee and notices were not filed. The Tribunal has directed deposit of the amount within 30 days by the non-applicants with interest at the rate of 6% per annum and has further directed that interest would be payable at 9% per annum if the entire award amount would not be deposited within three months.

Having regard to the circumstances of the case, the award in its totality cannot be said to be too low or grossly inadequate so as to warrant interference by the appellate court.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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